

REMARKS/ARGUMENTS

The election/restriction requirement dated January 10, 2008 has been considered. Invention I (claims 1-31) is provisionally elected without traverse. Species A is elected with traverse, as discussed below. The Applicant respectfully submits that at least claims 1-17 read on Species A.

Restriction between species is proper if the species are mutually exclusive. (MPEP § 806.04(f)). The Office Action identifies Species A as containing “amplification circuitry with a first amplifier input and a second amplifier input, as recited in claim 1.” (Page 4). The Office Action identifies Species B as containing “a switch configured to switch the amplification circuitry between a first and second impedance input, as defined in claim 17.” (Id.). The Applicant respectfully submits that these identified Species are not mutually exclusive, and can be employed in a common embodiment.

For example, Fig 4A illustrates “amplification circuitry with a first amplifier input and a second amplifier input” (Species A) as well as “a switch configured to switch the amplification circuitry between a first and second impedance input” (Species B).

Furthermore, the Applicant respectfully submits that Figure 4A illustrates “a switch configured to switch the amplification circuitry between a first and second impedance input” (Species B) while Figure 4B illustrates “amplification circuitry with a first amplifier input and a second amplifier input” (Species A). Figure 12 illustrates sensing circuitry 304, which can include the components illustrated in Figures 4A and 4B. (Specification, Page 27, Line 26 – Page 28, Line 1).

Therefore, the Applicant respectfully submits that amplification circuitry with a first amplifier input and a second amplifier input (Species A) is not mutually exclusive of a switch configured to switch the amplification circuitry between a first and second impedance input (Species B), and restriction between these species is inappropriate.

Species C is described as a “device which does not require electrode arrangements, as recited in claim 51.” The Applicant respectfully submits that even though claims cannot themselves be species (MPEP § 806.04(e)), it appears that a negative limitation is being identified where no such negative limitation exists. For example, claim 51 does not recite a limitation regarding a device which does not require an electrode arrangement. The

Applicant respectfully submits that claim 51 can read on embodiments that have an electrode arrangement. (See Figure 12, elements 207 and 214; see also Specification, Page 27, Line 26 – Page 28, Line 1, stating that the sensing circuitry 304 of Figure 12 can include the circuitry of Figure 4B).

The Applicant respectfully submits that it is unclear where support is found in the current Application for a device which does not require an electrode arrangement. The Applicant respectfully requests, if the Species restriction is to be maintained, identification of a species in the Application that does not require an electrode arrangement so that the Applicant can better understand what is being restricted and whether such a Species has any connection to any of the claims.

Furthermore, the Applicant respectfully submits that Species C is not mutually exclusive of Species A or B. For example, a “device which does not require electrode arrangements” (Species C) could be used with “amplification circuitry with a first amplifier input and a second amplifier input” (Species A) as well as “a switch configured to switch the amplification circuitry between a first and second impedance input” (Species B). As such, Species C is not mutually exclusive of Species A or B.

For at least these reasons, the election of species requirement is in error and must be withdrawn. In view of the above, the Applicant respectfully requests reconsideration and withdrawal of the requirement for Species restriction.

Authorization is given to charge Deposit Account No. 50-3581 (GUID.607PA) any necessary fees for this filing. If the Examiner would find it helpful to discuss this issue by telephone, the undersigned attorney of record invites the Examiner to contact the attorney of record.

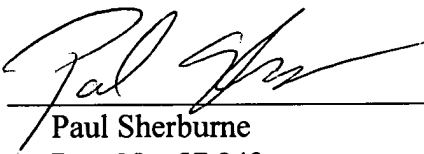
CONCLUSION

In view of the above, the Applicant respectfully requests reconsideration and withdrawal of the requirement for restriction. If the Examiner would find it helpful to discuss this issue by telephone, the undersigned attorney of record invites the Examiner to contact the attorney of record.

Respectfully submitted,

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